THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.8323 of 2001

Dated 17-03-2006

Between:

Smt. N. Radhamma.

.... PETITIONER

AND

The Assistant Director of Fisheries,

Khammam, and another.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.8323 of 2001

O R D E R:

The petitioner claims to be the owner of land admeasuring Ac.77-22 guntas in Survey No.32 situated at Tutakalingannapet Village, Enkuru Mandal, Khammam District. It is alleged that the said land of the petitioner has been included in the water spread area of the second respondent-Fishermen Cooperative Society for the purpose of conducting fishing operations and consequently the petitioner is not permitted to cultivate the said land. Hence the petitioner seeks a writ of Mandamus declaring the action of the respondents as arbitrary and illegal.

On behalf of the first respondent, a counter-affidavit has been filed, in which the allegation of the petitioner that his patta land to an extent of Ac.77-22 guntas has been submerged in the irrigation tank is denied. It is further stated that the tank in question namely *Peddacheruvu* is government tank and has been under the control of irrigation department with an ayacut of 220 acres. It is also stated that with regard to the same subject matter the petitioner filed a civil suit in the Court of the Principal Junior Civil Judge, Kothagudem, Khammam District, wherein though initially a temporary injunction was granted, subsequently the same was vacated.

I have heard the learned counsel for both parties and perused the material on record.

Having regard to the averments in the counter-affidavit, which stood unrebutted, and particularly keeping in view that the plea of the

petitioner that her patta land has been submerged with the tank in question itself is a disputed question of fact, the Mandamus as prayed for cannot be granted.

Instead I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to make an appropriate representation before the District Collector, Khammam, in which event an enquiry shall be caused into the claim made by the petitioner and appropriate orders be passed in accordance with law as expeditiously as possible preferably within a period of three months from the date of receipt of such representation.

The writ petition is accordingly disposed of. No costs.

(G. ROHINI, J)

Date:17-03-2006

ghn